

# INSTRUCTIONS—FORM 765

## 1997 KENTUCKY PARTNERSHIP INCOME RETURN

**WHO MUST FILE**—Any partnership, syndicate, group, pool or joint venture which derives income from property located in Kentucky or does business in Kentucky must file a partnership return on Form 765.

**INCOME/DEDUCTIONS TO BE REPORTED**—The income and deductions of a Kentucky partnership are determined under the Internal Revenue Code in effect December 31, 1997, except for differences provided in KRS 141.010 and 141.206. The following differences apply:

- (1) exclude interest income from U.S. government obligations;
- (2) include interest income from obligations of other states and their political subdivisions; and
- (3) include transition income (deduction) carryover amount for depreciation differences from 1994 Form 762TS, line 5.

For additional instructions for reporting income and deductions, see federal instructions, Form 1065.

**INTERNAL REVENUE CODE DEFINED**—Kentucky income tax law is based on the federal Internal Revenue Code in effect on December 31, 1997. The Revenue Cabinet generally follows the administrative regulations and rulings of the Internal Revenue Service in those areas where no specific Kentucky law exists.

### ► ATTACH A COPY OF FEDERAL FORM 1065 AND ALL SCHEDULES.

**SPECIFIC INSTRUCTIONS**—The Kentucky Form 765 begins with ordinary income reported on federal Form 1065, line 22. Adjustments or differences to the federal income amount are then reported on the Kentucky Form 765.

**Line 2 or 6**—If a partnership is reporting the Kentucky transition amount over four years (carryover amount), enter the amount from the 1994 Form 762TS, line 5. Attach a copy of the 1994 Form 762TS.

**Lines 3 and 7**—For most partnerships, there will be no other differences between the federal and Kentucky ordinary income amounts. If there are differences, they will be reported on line 3 and/or 7.

**SCHEDULES K and K-1**—Kentucky Schedules K and K-1 are to be completed only if the amounts to be reported are different from the amounts reported on the federal Schedules K and K-1.

### SCHEDULE K, SECTION II

**A partnership which has all of its property and payroll within Kentucky does not make the computation in Section II and must enter 100 percent on Schedule K-1 (Form 765), Item D(2).** A partnership which has property or payroll both within and without Kentucky must compute the percentage of its gross receipts from sales to purchasers or customers in Kentucky or services performed in Kentucky to its gross receipts from sales or services everywhere during the tax year.

The terms "sales" or "services" mean all gross receipts derived from transactions or activities in the ordinary and regular course of the partnership's trade or business and which are includible in its gross income. Interest, dividends, royalties and gains or losses on the disposition of property acquired, held, owned or used in **the ordinary or regular course of the partnership's business** are gross receipts used to determine the business ratio. Gross receipts of this kind are included in the Kentucky receipts portion (numerator) of the business ratio if the partnership is domiciled in Kentucky or the source of such income is in Kentucky. If the partnership is domiciled outside of Kentucky but the source of such income is in Kentucky, the gross receipts are in the numerator of the business ratio. The denominator of the business ratio is the total gross receipts in the ordinary or regular course of the partnership's trade or business.

Gross receipts, for determining the business ratio, do not include in either the numerator or the denominator interest, dividends, royalties and gains or losses on the disposition of property held for **other than trade or business purposes**.

Enter the percentage from Line 3 on Schedule K-1 (Form 765), Item D(2).

**RECAPTURE OF IRC SECTION 179 DEDUCTIONS**—Furnish each partner a schedule showing the amount of IRC Section 179 expense subject to recapture that was originally passed through to the partners and the partnership's tax year in which the amount was passed through for federal tax purposes. Inform the partner if the recapture amount was caused by the disposition of the recovery property.

**LIABILITY OF PARTNERS**—Partnerships are exempt by law from Kentucky income tax. However, partners of partnerships doing business in Kentucky must report their share of income for Kentucky income tax purposes. This applies to individuals, trusts, estates and corporations. Individuals who are Kentucky residents are required to file on Form 740 and report their share of partnership income earned within or without Kentucky. Nonresidents are required to file on Form 740-NP and report their distributive share of income from partnerships doing business in Kentucky.

Partnerships having 15 or more full-year nonresident individual partners with no other Kentucky income may receive special permission from the Revenue Cabinet to file a combined return in lieu of separate returns for the qualifying partners. For further information, see Revenue Circular 40C010.

**KENTUCKY UNEMPLOYMENT TAX CREDIT**—Employers are permitted a credit against their annual income tax for hiring qualified unemployed Kentucky residents. The credit is \$100 for each qualified person hired. To qualify, the person employed must have been officially unemployed for 60 days. Partnerships must complete and attach Schedule UTC to compute the total credit. Compute each partner's distributive share to be entered on Schedules K and K-1, line

13. The distributive share is determined by multiplying the total credit on Schedule UTC, line 38, times the percentage of each partner's share of the partnership profits and losses. See Schedule UTC for further instructions.

**RECYCLING AND COMPOSTING EQUIPMENT TAX CREDIT —** KRS 141.390 provides that taxpayers, who purchase recycling or composting equipment to be used exclusively in Kentucky for recycling or composting post-consumer waste materials, shall be entitled to a credit against the income tax imposed by KRS Chapter 141 in an amount equal to 50 percent of the installed cost of the equipment. Application for this credit must be made by the partnership on Schedule RC, which may be obtained from the Revenue Cabinet.

The approved credit is passed through to the partners of the partnership. A copy of Schedule RC reflecting the amount of credit approved by the Revenue Cabinet must be attached to the partnership's return for the year during which the equipment was purchased. The total amount of the approved credit should be entered on Schedule K. The partnership must compute each partner's distributive share of the total approved credit reflected on Schedule K by completing Parts I and II of Schedule RC (K-1), Pro Rata/ Distributive Share of Approved Recycling and/or Composting Equipment Tax Credit. A copy of the completed Schedule RC (K-1) should be provided to each partner with their Schedule K-1 (Form 765).

**SCHEDULE K-1, PARTNERS' SHARE OF INCOME, CREDITS, DEDUCTIONS, ETC. — Complete only if different from federal Schedule K-1.** Schedule K-1 (Form 765) shows each partner's separate share of items to be reported on their individual income tax return. If required, this form must be prepared in triplicate for each partner. One copy of each K-1 must be attached to Form 765 filed with the Kentucky Revenue Cabinet. One copy must be retained with the copy of the partnership return as a part of the partnership's records. One copy with instructions must be given to each partner.

Enter the name, address and identifying number of the partner, and the partnership. Schedule K-1 (Form 765) must be completed and given to each partner on or before the day on which Form 765 is filed with the Revenue Cabinet. Complete items A, B, C, D, E and F, and enter the distributive share of each item listed.

Photocopies of Schedule K-1 (Form 765) may be used in lieu of the official schedule printed by the Revenue Cabinet provided the photocopies are on bond paper of at least 16 pounds and are of good quality. You may find it more convenient to make photocopies of the schedule than to order the schedule from the Cabinet. If photocopies are made, be sure to give each partner a copy of the instructions for Schedule K-1 (Form 765) included on the reverse side of the official schedule. Prior approval from the Cabinet to use photocopies of Schedule K-1 (Form 765) is not required.

**Nonresident Partners' Taxable Percentage—**To complete item "D(2)" the partnership must enter, in the space provided, its percentage of business in Kentucky. A partnership which has all of its property and payroll within Kentucky must enter 100 percent.

A partnership which has property and/or payroll both within and without Kentucky must enter the percentage or ratio of its gross receipts from sales to purchasers or customers in Kentucky or services performed in Kentucky to its gross receipts from sales or services everywhere during the tax year. The terms "sales" or "services" mean all gross receipts derived from transactions or activities in the ordinary and regular course of the partnership's trade or business and which are includible in its gross income including gross receipts from farming and rental activities if these activities are in the ordinary or regular course of the partnership's business.

Interest, dividends, royalties and gains or losses on the disposition of property acquired, held, owned or used **in the ordinary or regular course of the partnership's business** are gross receipts used to determine the business ratio. Gross receipts of this kind are included in the Kentucky receipts portion (numerator) of the business ratio if the partnership is managed, directed or controlled in Kentucky or the source of such income is in Kentucky. If the partnership is managed, directed or controlled outside of Kentucky but the source of such income is in Kentucky the gross receipts are included in the numerator of the business ratio. The denominator of the business ratio is the total gross receipts in the ordinary or regular course of the partnership's trade or business.

Gross receipts, for determining the business ratio, do not include in either the numerator or the denominator interest, dividends, royalties and gains or losses on the disposition of property held for **other than trade or business purposes**.

EXAMPLE:

Kentucky Receipts	—	\$ 3,750,000	=	37.5% Business Ratio
Total Receipts	—	\$10,000,000		

Attach a schedule of this computation to Form 765.

**ASSISTANCE—**Additional information or assistance in completing the partnership return may be obtained by contacting the Revenue Cabinet, Frankfort, Kentucky 40620, (502) 564-4581 or 564-3058 (Telecommunication Device for the Deaf). Assistance may also be obtained from any Taxpayer Service Center located in the following cities: Ashland, Bowling Green, Corbin, Florence, Hazard, Hopkinsville, Lexington, Louisville, Owensboro, Paducah and Pikeville.